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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 JOHN DEMARIGNY

Case No. 2:18-cv-00817-JCM-NJK

7 Plaintiff,

8 v.

AMENDED
ORDER SCHEDULING EARLY
NEUTRAL EVALUATION SESSION

9 WYNDHAM VACATION RESORTS INC.,
et al.,

10 Defendants.

11 This amended order corrects the date due for the confidential ENE statement.

12 Pursuant to the current court-based Early Neutral Evaluation (“ENE”) Program in the
13 District of Nevada as outlined in LR 16-6, an ENE session has been scheduled to commence at
14 **9:30 a.m., September 21, 2018**, in the chambers of the undersigned U.S. Magistrate Judge, Room
15 3071, Lloyd D. George United States Courthouse, Las Vegas Boulevard South, Las Vegas,
16 Nevada, 89101.

17 The court expects the parties to make immediate arrangements to clear their schedules to
18 make themselves and persons with full authority present on the date scheduled. The court is
19 referred a large number of ENE’s and settlement conferences. Untimely requests to vacate and
20 reschedule an ENE make the scheduled date unavailable for other litigants waiting their turn. For
21 these reasons, **a request to reschedule made less than 14 days before the scheduled ENE will**
22 **not be granted absent compelling circumstances, a strong showing of good cause, and an**
23 **explanation of why any scheduling conflict could not be resolved.**

24 All counsel of record who will be participating in the trial of this case, all parties appearing
25 *pro se*, if any, and **all individual parties must be present**. In the case of non-individual parties,
26 counsel shall arrange for a representative with binding authority to settle this matter up to the full
27 amount of the claim to be present for the duration of the ENE session.
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1 If any party is subject to coverage by an insurance carrier, then a representative of the
2 insurance carrier with authority to settle this matter up to the full amount of the claim must also be
3 present for the duration of the ENE session.

4 A request for an exception to the above attendance requirements must be filed and served
5 within seven days after entry of an order scheduling the ENE session. A response to the motion
6 for exemption must be filed within 14 days after service of the original motion. A reply will not
7 be allowed. The evaluating magistrate judge has final authority to grant or deny any motion
8 requesting exemption from the program and may exempt any case from early neutral evaluation
9 on the judge's own motion. These orders are not appealable. Unless excused by the evaluating
10 magistrate judge, the parties with authority to settle the case and their attorneys must attend the
11 early neutral session in person.

12 **PREPARATION FOR ENE SESSION**

13 In preparation for the ENE session, the attorneys for each party, and the parties appearing
14 *pro se*, if any, shall submit a confidential written ENE statement for the court's *in camera* review.
15 The ENE statement shall be concise and shall:

- 16 1. Identify, by name or status the person(s) with decision-making authority, who, in
17 addition to counsel, will attend the ENE session as representative(s) of the party, and
18 persons connected with a party opponent (including an insurer representative) whose
19 presence might substantially improve the utility of the ENE session or the prospects of
20 settlement;
- 21 2. Describe briefly the substance of the suit, addressing the party's views on the key
22 liability issues and damages;
- 23 3. Address whether there are legal or factual issues whose early resolution would reduce
24 significantly the scope of the dispute or contribute to settlement negotiations;
- 25 4. Describe the history and status of settlement negotiations;
- 26 5. Include copies of documents, pictures, recordings, etc., out of which the suit arose, or
27 whose availability would materially advance the purpose of the evaluation session (*e.g.*,
28 medical reports, documents by which special damages might be determined);
6. Discuss the strongest and weakest points of your case, both factual and legal, including
a candid evaluation of the merits of your case;

7. Estimate the costs (including attorney's fees and costs) of taking this case through trial;
8. Describe the history of any settlement discussions and detail the demands and offers that have been made and the reason settlement discussions have been unsuccessful;
9. Certify that the party has made initial disclosures under Fed. R. Civ. P. 26(a)(1) and that the plaintiff has provided a computation of damages to the defendant under Fed. R. Civ. P. 26(a)(1)(A)(iii); and
10. Be appropriately organized, tabbed, indexed, and placed in a binder in accordance with LR IA 10-3.

The ENE statements shall be submitted to the undersigned Magistrate Judge **in a sealed envelope marked confidential, no later than 4:00 p.m., September 14, 2018**. If hand-delivered by courier or runner, the envelope should be delivered to the intake window of the Clerk's Office to be placed in the undersigned's mailbox. If delivered by the U.S. Postal Service, Fed Ex, or UPS, packages may be addressed directly to Judge Leen's chambers, Room 3071. **DO NOT SERVE A COPY ON OPPOSING COUNSEL.**

The purpose of the ENE statement is to assist the undersigned Magistrate Judge in preparing for and conducting the ENE session. In order to facilitate a meaningful ENE session, your utmost candor in providing the requested information is required.

The ENE process is subject to the confidentiality provision of LR 16-5. The written ENE statements will not be seen or shared with either the district judge or magistrate judge assigned to this case. **The ENE statements will be seen by no one except the undersigned unless a party gives the court permission to reveal some or all of the information in the statement during the ENE session.** Each ENE statement will be securely maintained in my chambers, and will be destroyed following the session.

Failure to comply with the requirements set forth in this order will subject the non-compliant party and/or counsel to sanctions under Rule 16(f) of the Federal Rules of Civil Procedure.

DATED this 24th day of July, 2018.


PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE